

SPECIFICATION

Please amend the Specification as follows:

In the Title, page 1, line 1, change “CHEEK SEAT” as – SUPPLEMENTAL MOTORCYCLE SEAT -.

CLAIM OBJECTIONS

The Examiner has indicated: Claims 2 through 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In line 9 of Claim 2, “the support means” lack proper antecedent basis. Lines 6-7 of Claim 3 are vague because it cannot be ascertained if Applicant intends to positively set forth “1” motorcycle accessory support, “or more” motorcycle accessory supports. In lines 3 to 4 of Claim 4, Applicant sets forth “a support plate secured between the first and second legs of the U-shaped portion of the tubular support to define a platform for supporting a motorcycle seat cushion.” It cannot be determined what structure represents this feature. This feature appears to be unsupported by this specification. In Claim 4, it is unclear if Applicant intends to positively claim the combination of a seat assembly, any motorcycle passenger seat, or the sub combination of seat assembly for use with a passenger seat. Line 1 of the Independent Claim 3, from which Claim 4 depends, appears to set forth the sub combination. Note the recitation a “seat assembly for a motorcycle equipped with a passenger seat.” Lines 8 – 10 appear to set forth the combination. Note the recitation of the tubular support for the assembly being “mounted substantially adjacent to each side of a motorcycle passenger seat with a platform portion of the tubular support extending laterally from the motorcycle passenger seat.” Line 8 of Claim 4 is grammatically vague. Note the recitation “is mounted substantially adjacent to each side of a motorcycle passenger seat.” In line 9 of

Claim 4, it is unclear if “the platform portion” is intended to be the same feature as the previously set forth “a platform.” Claim 5 is indefinite since it appears from indefinite Claim 3.

In response to the Examiner’s objections, Claims 1, 2, 3 and 4 have been modified to more particularly describe Applicant’s Supplemental Motorcycle Seat.

CLAIM REJECTIONS

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Welsh (20020069464). Note the side seat cushion (10), side seat cushion support (4), mounting means (6), the side seat cushion extending laterally from the motorcycle passenger seat (See Figure 9).

Claim 2, as best understood with the above-cited indefiniteness, is rejected under 35 U.S.C. 102(b) as being anticipated by Welsh (20020069464). In Figure 5, note the at least one side cushion (right side 1), seat cushion support frame (right side 3), side seat support (right side 4), mounting means (6), fastening means (5, 5 left side numbered 3).

Claim 3, as best understood with the above cited indefiniteness, is rejected under 35 U.S.C. 102(b) as being anticipated by Welsh (20020069464). Note that there are seat cushions (1,1), seat cushion support frame (3), seat cushion support frame (4), mounting means (5, half of 6 for each side), and lateral extension (C Figure 9).

In response to the Examiner’s rejections, Claims 1, 2, 3 and 4 have been modified to more particularly describe Applicant’s Supplemental Motorcycle Seat.

ALLOWABLE SUBJECT MATTER

The Examiner has indicated that Claims 4 and 5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office Action and to include all of the limitations of the base claim and any intervening claims.

In response to the Examiner’s comments, Claims 4 and 5 have been rewritten to address the Examiner’s concerns.

ELECTION/RESTRICTION

The Examiner has indicated that newly-submitted Claim 8 is directed to an invention that is independent or distinct from the invention originally claimed and elected for the following reasons:

Restrictions to one of the following inventions is required under 35 U.S.C. 121: [1. Claims 1-5, drawn to a seat assembly classified in Class 297, Subclass 250.1.¶ 3. Claim 8, drawn to a combination tour pack frame and seat assembly, classified in Class 297, Subclass 188.12.

The Examiner asserts the inventions are distinct, each from the other, because of the following reasons:

Inventions 3 and 1 are related as combination and sub combination. Inventions in this relationship are distinct if it can be shown that (1) the combination of Claims does not require the particulars of the sub combination as claimed for patentability, and (2) that the sub combination has utility by itself or in other combinations (MPEP Section 806.05(c)). In the instant case, the Examiner asserts the combination as claimed does not require the particulars of the sub combination as claimed because at least the U-shaped portion defining substantially parallel first and second legs is not required by the combination, wherein the feature is required by the sub combination. The sub combination has separate utility such as supplemental support structure for other than a motorcycle passenger seat. Since the Applicant received an action on the merits for the originally-presented invention, the Examiner indicates this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, Claim 8 was withdrawn from consideration as being directed to a non-elected invention.

Applicant elected Group 1, Figure 2, Claims 1-5 in the Response filed June 23, 2004.

The Election was made without Traverse. Claim 6 and 7 were non-elected. Claim 6 was subsequently treated since it was found to depend from allowable Claim 10. The allowability of Claim 3 has been withdrawn in view of newly-discovered prior art. Such has necessitated the withdrawal from consideration of Claim 6. In the Response filed November 15, 2004, Applicant indicates that non-elected Claim 7 belongs in the elected group 1. It does not appear that Claim 7 should be grouped with the elected embodiment. Claim 7 sets forth a pair of support frames, each including seat cushion support means for supporting a motorcycle seat cushion. This